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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,805	03/30/2000	Tomonori Mase	1075.1129/JDH	9101
21171 7590 02/23/2009 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER				
TRAN, DENISE				
ART UNIT		PAPER NUMBER		
2188				
MAIL DATE		DELIVERY MODE		
02/23/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/539,805

**Applicant(s)**

MASE ET AL.

**Examiner**

Denise Tran

**Art Unit**

2188

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6 and 26 is/are rejected.
- 7) ☒ Claim(s) 2-5, 7-21 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

#### DETAILED ACTION

1. The applicant's amendment filed 2/27/07 has been considered. Applicant's election without traverse of claims 1-21 and 25 of Group I in the reply filed on 10/23/03 is acknowledged.
2. Claims 22-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/22/03.
3. Claims 1-21 and 25 and new added claim 26 are presented for examination.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. Claims 1 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Leonhardt et al., US patent No. 5485321 (hereinafter Leonhardt).

As per claim 1, Leonhardt teaches a method for controlling a magnetic tape unit in response to a command from a command issuing apparatus, the method comprising:

in an open process for a file recorded on a magnetic tape (e.g., col. 12, lines 30-45; col. 17, line 60 to col. 18, line 10), fixing a position of a head (hereinafter referred to as a real head position) relative to said magnetic tape at a predetermined position in said magnetic tape unit (e.g., col. 12, lines 30-45; col. 17, line 60 to col. 18, line 10); and

when receiving a command directing to read an end-of-file label from said command issuing apparatus, executing emulation in which a tape operation of reading said end-of-file label according to said command is virtually carried out in said magnetic tape unit without making said magnetic tape unit carry out a real tape operation (e.g., col. 19, line 20 to col. 20, line 5).

Claim 26, Leonhardt teaches a method for controlling a magnetic tape unit in an open process for a file recorded on a magnetic tape (e.g., col. 12, lines 30-45; col. 17, line 60 to col. 18, line 10), the method comprising:

receiving a command directing to read an end-of-file label (e.g., col. 19, line 20 to col. 20, line 5); and

executing emulation in which a tape operation of reading said end-of-file label according to said command is virtually carried out in said magnetic tape unit without making said magnetic tape unit carry out a real tape operation (e.g., col. 19, line 20 to col. 20, line 5).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leonhardt et al., US patent No. 5485321 (hereinafter Leonhardt) as applied to claim 1 above, and further in view of Osterlund, US patent No. 5034914.

Claim 6, Leonhardt does not explicitly show a data buffer for temporarily storing write data to said magnetic tape and read data from said magnetic tape therein is interposed between said command issuing apparatus and said magnetic tape unit to asynchronously carry out a read/write process between said command issuing apparatus and said data buffer and a read/write process between said data buffer and said magnetic tape unit. Osterlund teaches a data buffer for temporarily storing write data to said magnetic tape and read data from said magnetic tape (e.g., fig. 1, el. 22; col. 11, lines 50-60) therein is interposed between said command issuing apparatus and said magnetic tape unit to asynchronously carry out a read/write process between said command issuing apparatus and said data buffer and a read/write process between said data buffer and said magnetic tape unit (i.e., not occurring at the same time, e.g., col. 12, lines 25-30; 40-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Osterlund in to the system/method of Leonhardt because it would allow temporarily holding data that is being transferred and preventing data being lost.

7. Claims 2-5, 7-21, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments with respect to claims 1 and 26 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise Tran whose telephone number is (571) 272-4189. The examiner can normally be reached on Monday and Thursday from 8:45 p.m. to 5:15 p.m.. The examiner can also be reached on alternate Friday

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sough Hyung, can be reached on 571-272-4098. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Denise Tran/

Primary Examiner, Art Unit 2188